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In the Course Of, Arising Out Of

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judicial or other office, the President and Executive Committee shall forthwith and within ten days provide for the submission of such question or measure to a vote of the members by postal ballot, the details of which shall be prescribed by the Executive Committee."

JUDICIAL COUNCILS—MEMBERSHIP

Ten States have provided for the formation of judicial councils, nine acts being now in effect, and one (Missouri) being defeated by a very close vote when submitted to the people. The composition of these councils is as follows:

California—Eleven judges, representative of all courts from justice of the peace to judge of supreme court.

Connecticut—Four judges, four lawyers, one prosecutor.

Kansas—Four judges, four lawyers, chairman of judiciary committee of the legislature.

Massachusetts—Five judges, four lawyers.

Missouri—Nine judges, representing three branches of judiciary. (Law defeated by popular vote.)

North Carolina—All members of the supreme court, all members of the superior courts, the attorney general, one lawyer from each judicial district. (Total membership about 50.)

North Dakota—All members of supreme court, all district court judges, one county judge, the attorney general, the dean of the law school, five members of the bar. (The second largest in membership.)

Ohio—Six judges, three lawyers.

Rhode Island—Three judges, three lawyers.

Texas—No law has been passed as yet, but the Texas proposal for a Judicial Council shows the following membership: Chief Justice of the Supreme Court, one associate justice, chief justice of each court of appeals, presiding judge of each judicial district, the attorney general, the chairmen of the House and Senate committees on Jurisprudence, a member of the law school faculty, four practicing lawyers, and three laymen, one of the last to be a journalist.

Virginia—President of the supreme court, three to five circuit judges, two or three judges of other courts of record, ten members of the bar (one from each congressional district).

Washington—Five judges, two legislators, three lawyers.

IN THE COURSE OF, ARISING OUT OF

The New York Compensation Law provides for injuries "arising out of and in the course of" the employment. North Dakota's law provides for injuries "in the course of employment". The distinction in construction of the two phrases is well brought out in a recent New

York case, *Mausert vs. Albany Builders' Supply Co.*, 229 N. Y. Supp. 652, to-wit: Claimant was the mother of and partly dependent upon the deceased workman, who was killed while driving his employer's team over a smooth pavement. At 11:30 in the morning, while the horses were proceeding at a walk, the deceased was observed leaning forward on the seat. A man ran to support him, but before he could be reached he fell off the wagon, two wheels passing over the body and crushing the chest. He died the same day. The man who went to his aid noticed that his face was white, but got no odor of liquor from his breath. An official of the employer company testified that he saw deceased about 9:30 that morning, and that he looked as though he had been drinking. It was held, citing *Daly vs. Trucking Co.*, 223 N. Y. Supp. 861: That intoxication was not established; that the cause of the fall was entirely unexplained; that he accidentally fell from the seat of the wagon; that the injury occurred in the course of the employment; that there was no proof that it arose out of the employment; and that the burden of proof was upon claimant to establish that the employment itself gave rise to the accident resulting in injury. (May, 1928.)

DISCIPLINARY POWERS

The Board of Governors of the California State Bar Association (incorporated like North Dakota) has disciplinary powers, and reports indicate that it is not hesitating to use them for the benefit of the profession. At its August meeting, says the San Francisco Recorder, action was taken upon sixty-seven matters of discipline. In three cases disbarments were ordered, fifty were dismissed, twelve referred to local committees for further action, one resulted in suspension, and another brought an order to show cause why the reproof of the local committee should not be increased to suspension or disbarment. As elsewhere, the majority of complaints were nothing more nor less than disputes over fees. Provision was made by the Board for the appointment of arbitration and conciliation committees to dispose of such cases.

DONATIONS REQUESTED

Requests to supply American legal publications to the Middle Temple Library, London, England, come at frequent intervals, the latest being one from Clarence M. Lewis, of 43 Cedar Street, New York, stating that the Library would appreciate gifts of the various State Reports, including the 49 volumes of North Dakota Reports.

On receipt of the request from Mr. Lewis, the Editor checked the volumes in his bookcases, and found that he had two copies of Volume 41 of these Reports. One of these is, therefore, going forward to Mr. Lewis for shipment to London. It is possible that others may find duplications on their shelves, and would be glad to present one of the duplicates to this library, use of which is courteously and liberally extended to all American lawyers.